IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 07.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.494 of 2006

Saravanan ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by the
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai-8. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner namely Saravanan S/o Govindasamy has been detained under Act 14/82 as a "Goonda" vide detention order dated 17.04.2006 on the file of the second respondent herein made in Memo No.134/BDFGISV/2006, quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and set him at liberty from the Central Prison, Chennai.

For Petitioner : Mr.M.Rajavelu
For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner by name Saravanan, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 17.04.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. For this, learned Additional Public Prosecutor has furnished the details, which show that the representation of the detenu dated 30.04.2006 was received by the Government on 09.05.2006 and remarks were called for on 10.05.2006 and the remarks were received by the Government on 16.05.2006 and the File was submitted on 22.05.2006 and the same was dealt with by the Under Secretary and Deputy Secretary on the same day i.e. on 22.05.2006 and finally, the Minister for Prohibition and Excise passed orders on 23.05.2006. The rejection letter was prepared on 24.05.2006 and the same was sent to the detenu on 25.05.2006 and served to him on 26.05.2006. The particulars furnished viz., the time taken by the sponsoring authority for forwarding the remarks to the Government would also show that there was no undue delay at any point. However, the learned counsel for the petitioner submitted that even after receipt of the remarks i.e. on 16.05.2006, there is no justification for submitting the records for taking decision till 22.05.2006. If we exclude the intervening holidays viz., Saturday and Sunday, we are satisfied that the time taken between the two stages is only three days, which is permissible. Accordingly, we reject the said contention and we hold that there was no let up or undue delay as claimed by the learned counsel for the petitioner.

4. The learned counsel for the petitioner further submitted that a reading of paragraph 4 of the grounds of detention shows that though the detaining authority has referred to two crime Nos.128/2006 and 132/2006 on the file of J9, Thuraipakkam Police Station, he has not applied his mind whether any bail application was moved in respect of Crime No.132/2006, which relates to ground case. Paragraph 4 of the grounds of detention shows that the detaining authority, after referring the above mentioned two crime numbers, has stated that the detenu has moved the bail application before the District Principal and Sessions Court, Chengalpattu in Crime No.2732/2006 and the same is dismissed. After finding that there is real possibility of his coming out on bail by filing another application before the same Court or any Court, he arrived at a conclusion that if he comes out on bail, he will indulge in further activities, which will be prejudicial to the maintenance of public order. A reading of the above paragraph shows that the detaining authority has not adverted to the ground occurrence i.e. Crime No.132/2006.

5. As rightly pointed out by the learned Additional Public Prosecutor, the adverse case Crime No.128/2006 relates to various

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offences under Sections 147, 148 and 302 IPC. On the other hand the ground case Crime No.132/2006 of J9 Thuraipakkam Police Station relates to the offences under Sections 341, 392, 397, 427 and 506(ii) IPC. As rightly pointed out, compared to these two crime numbers, earlier Crime No.128/2006 viz., adverse case, is graver in nature since the offence involved is under Section 302 IPC. Inasmuch as the detaining authority has adverted to, considered and taken note of all the relevant facts with regard to the offences relating to graver offence, merely because there is no reference to Crime No.138/2006, which relates to lesser offence, we are of the view that the detaining authority cannot be faulted with and the detention order cannot be interfered with.

6. We are satisfied that inasmuch as the detaining authority has considered the crime No.128/2006 relating to graver offence, we do not find any flaw in the ultimate decision taken by him. Accordingly we reject the said contention also.

7. In the light of what is stated above, we do not find any ground for interference. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The Commissioner of Police, Greater Chennai, Egmore, Chennai-8.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

SGL (CO)
km/18.8.

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